REMARKS

Claims 1-18 are pending. Applicants elect with traverse Group II (claims 12-17) for examination on the merits. Claim 9-11 and 18 are directed to a method of making the elected product. The other amendments correct informalities or conform the claims to U.S. practice. Thus, they do not alter the scope of the claims.

Notwithstanding the above election, reconsideration of the restriction requirement is requested because examination of all pending claims would not constitute a serious burden. Thus, claims 1-11 and 18 should not be withdrawn from consideration.

In the alternative, Applicants disagree with the allegation in the Action that the pending claims lack unity of invention, and therefore belong to different groups of inventions. Traversal is based on the pending claims being so linked as to form a single general inventive concept under PCT Rule 13.1. The Examiner alleged on pages 2-3 of the Action that a special technical feature was lacking because Wyant et al. disclose Applicants' invention. But the cited reference discloses use of an intact flagellin protein instead of a flagellin protein or peptide fragment thereof which is truncated, mutated or has deletions therein as required by the claims. Therefore, Applicants request that the pending claims be examined together in this application because use of such modified flagellin proteins or peptide fragments for inducing an adaptive immune response is a special technical feature linking the claims.

Applicants submit that, in accordance with the M.P.E.P., claims 1-18 are linked to form a single general inventive concept. In particular, M.P.E.P. § 1850 III A Combinations of Different Categories of Claims (8th Ed., Rev. 5, August 2006), states at 1800-96 to 1800-97:

> The method for determining unity of invention under Rule 13 PCT shall be construed as permitting, in particular, the inclusion of any one of the following combinations of claims of different categories in the same international application:
>
> (A) In addition to an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the said product, and an independent claim for a use of the said product . . .
>
> [A] process shall be considered to be specially adapted for the manufacture of a product if the claimed process inherently results in the claimed product with the technical relationship being present between the claimed product and claimed process. The words "specially adapted" are

not intended to imply that the product could not also be manufactured by a different process.

Accordingly, Applicants submit that there is no lack of unity with regard to claims 1-18. If the present requirement is not withdrawn, such that all of the pending claims are searched and examined in this application, the Examiner is respectfully requested to address with particularity why M.P.E.P. § 1850 III A does not apply to this application.

Furthermore, under the Commissioner's Notice of March 26, 1996 (1184 OG 86) implementing the Federal Circuit's decisions of *In re Ochiai*, 37 USPQ2d 1127 (1995) and *In re Brouwer*, 37 USPQ2d 1663 (1996), Applicants request rejoinder of process claims upon an indication that a product claim is allowable.

Applicants earnestly solicit an early and favorable examination on the merits. The Examiner is invited to contact the undersigned if any further information is required.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 

Gary R. Tanigawa
Reg. No. 43,180

901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100